IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28-7-2006

Coram

The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

Writ Petition No.20273 of 2006 and M.P.Nos 1, 2
Writ Petition No.20274 of 2006 and M.P.Nos.1, 2

W.P.No.20273 of 2006
B. Selvaraju ... Petitioner

Vs.

1. The Chief Educational Officer,
Tiruvannamalai,
Tiruvannamalai District.

2. The District Educational Officer,
Tiruvannamalai Educational District,
Tiruvannamalai.

3. The Correspondent,
Subramaniya Sastriar Higher Secondary School,
Arani, Tiruvannamalai District. ... Respondents

Writ petition filed under Article 226 of Constitution of India, praying this Court to issue a writ of mandamus directing the 3rd respondent to extend the service of the petitioner as Secondary Grade Teacher, till the end of the academic year 2006-2007 i.e., 31.5.2007.

W.P.No.20274 of 2006

V. Thirugnanasambandan .. Petitioner

Vs.

1. The Chief Educational Officer,
Tiruvannamalai,
Tiruvannamalai District.
2. The District Educational Officer,
Tiruvannamalai Educational District,
Tiruvannamalai.

3. The Correspondent,
Subramaniya Sastriar Higher Secondary School,
Arani, Tiruvannamalai District. ... Respondents

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Writ petition filed under Article 226 of Constitution of India, praying this Court to issue a writ of mandamus directing the 3rd respondent to extend the service of the petitioner as Post Graduate Assistant till the end of the academic year 2006-2007 i.e., 31.5.2007.

For Petitioners : Mr.V.Babu

For Respondents 1 & 2 : Mr.A.Arumugam, AGP

For 3rd Respondent : Mr.A.S.Kaizer

O R D E R

In W.P.No.20273 of 2006, petitioner seeks to direct the third respondent to extend the service of the petitioner as Secondary Grade Teacher till the end of the academic year 2006-2007 i.e. 31.5.2007.

2. The brief facts of the case are that the petitioner attained the age of superannuation on 30.6.2006 and on 1.6.2006 and on 9.6.2006 he submitted representations before the third respondent along with medical certificate to extend his service on re-employment basis till the end of the academic year, i.e., 31.5.2007. The grievance of the petitioner is that in spite of his request, he was not given re-employment from 1.7.2006 as per the Government Orders and hence filed the writ petition.

3. In the counter affidavit filed by the third respondent, it is stated that the petitioner is not entitled to get re-employment as his character and conduct are not satisfactory. In paragraph 6 of the counter affidavit it is stated as under,

> "6. .... The school received lot of complaints from the students that the petitioner illegally collected money from the 8th standard students for various reasons for which the petitioner has no authority. A show cause notice was issued to the petitioner and the petitioner has accepted the collection of money and as per the direction of the 3rd respondent he returned the money to the students concerned and in writing he admitted the said illegal collection of money. Hence the 3rd respondent school after conduct of an enquiry passed an order suspending the petitioner for a period of eight days as a punishment. It is not to correct to say that the said period was regularised. Pending approval of the

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Educational authorities only salary was paid for the said period. Moreover the petitioner's attitude towards other teachers was also not satisfactory. From these incidents it is clear that the conduct and character of the above said teacher was not good and satisfactory and he is not entitled for re-employment till the end of the academic year. The petitioner has also not fulfilled the 3rd pre-requisite condition as stated above. Hence the 3rd respondent has not chosen to allow the petitioner to continue till the end of academic year and passed the relieving order on 30.6.2006. When the said order was sought to be served on the petitioner on 30.6.2006 he refused to receive the same and hence the said order was sent by RPAD to him on the next working day i.e., 03.07.2006. It is also worthwhile to mention herein that one Selvi M.Barathi was appointed as teacher through P.T.A. in the place of the petitioner by an order dated 01.07.2006."

4. In W.P.No.20274 of 2006 petitioner seeks similar direction to the third respondent therein to extend his service as Post Graduate Assistant (Tamil) till the end of the academic year 2006-2007 i.e., 31.5.2007.

5. The brief facts of that case is that the petitioner attained the age of superannuation on 17.6.2006 and on 1.6.2006 made representation to the third respondent along with medical certificate to extend his service on re-employment basis till the end of the academic year 2006-2007 i.e., 31.5.2007. As the petitioner has not been provided with re-employment in spite of his representation dated 1.6.2006 as per the Government Orders, he has filed the writ petition.

6. In the Counter affidavit filed by the third respondent in that case also it is stated that the petitioner is not entitled to get re-employment since his character and conduct are not satisfactory. Paragraphs 6 and 7 of the counter affidavit reads as under,

"6. ... During the general verification of the community, nativity and degree certificates of the teachers working in the school, the petitioner, who belongs to forward community (Saiva Vellalar) has submitted to the school a wrong community certificate specifying that he belongs to Backward class (Thuluva Velalar). When the community certificate submitted by the petitioner was sent for

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verification to the concerned Tahsildar, the Tahsildar after due enquiry, by his communication dated 13.09.2005 informed the school that the petitioner belongs to forward community (Saiva Velalar). Hence the correspondent of the 3rd respondent by his proceedings dated 12.09.2005 issued a show cause notice to the petitioner that why disciplinary action should not be taken against him. As the petitioner's reply was not satisfactory the concerned educational authorities were addressed in this regard for further course of action. The enquiry is pending before the educational authorities.

7. It is further submitted that the petitioner in the name of "Mahalakshmi Padhippagam" engaged in gainful business during the course of his service in the school, which is against the service condition of a teacher. On an another occasion the petitioner after obtaining casual leave, he altered the attendance register by over writing his signature on the writings of C.L. When the said act of the petitioner was questioned by the management, he ultimately confessed his illegal acts and assured that he will not indulge in such activities in future and requested for a pardon. From these incidents it is clear that the conduct and character of the above said teacher was not good and satisfactory and he is not entitled for re-employment till the end of the academic year. The petitioner has also not fulfilled the 3rd pre-requisite condition as stated above. Hence the 3rd respondent has not chosen to allow the petitioner to continue till the end of academic year and passed the relieving order on 30.06.2006. When the said order was sought to be served on the petitioner on 30.06.2006 he refused to receive the same and hence the said order was sent by RPAD to him on the next working day i.e. 03.07.2006. It is also worthwhile to mention herein that one Selvi Saikumari was appointed as teacher through P.T.A. in the place of the petitioner by an order dated 01.07.2006."

7. The learned counsel appearing for the petitioners submitted that since the petitioners are entitled to get re-employment as per various Government Orders, the refusal to grant

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re-employment by the third respondent is illegal and the petitioners are entitled to succeed in the writ petitions.

8. Per contra, the learned counsel appearing for the 3rd respondent states that the petitioners' character and conduct are not satisfactory as per the conditions stipulated in G.O.Ms.No.452, Education Department, dated 24.3.1970 and therefore the Management refused to give re-employment to the petitioners and there is no illegality in the said orders.

9. I have considered the rival submissions of the learned counsel appearing for the petitioner as well as the respondents.

10. The common issue in this writ petitions is whether the denial of re-employment to the petitioners from 1.7.2006 to 31.5.2007 by the Management is proper or not.

11. In G.O.Ms.No.452 Education Department, dated 24.3.1970 the Government passed the following order,

> "In Memo 52041 F1/69-1 Edn. dt.8.10.1969 the Government have ordered that teachers who attain the age of superannuation in the middle of the School year should be continued on re-employment terms till the date of closure of the school for summer vacation subject to the usual conditions.
>
> Namely:-1. That their work and conduct are satisfactory.
>
> 2. That they are physically found fit for further service.
>
> 3. That no disciplinary proceedings are pending against them.
>
> The Director of School Education is informed that Teacher's/Headmasters of aided Elementary and Secondary Schools who are continued in service on re-employment terms till the closure of the school for summer vacation are eligible for full vacation salary."

A reading of the above order makes it clear that a Teacher, whose date of superannuation falls during the academic year is entitled for re-employment only if certain conditions are satisfied.

12. The first and foremost condition to be satisfied is that the character and conduct should be satisfactory. From the counter affidavit it is seen that the conduct and character of the petitioners is not satisfactory.

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13. In view of the above said facts, particularly on the basis of the averments contained in the Counter affidavits, extracted above, it has to be held that the character and conduct of the petitioners are not satisfactory during their service and the Management rightly relieved the petitioners from service on 30.6.2006 without giving re-employment.

14. A similar issue arose before this Court in W.P.No.21220 of 2006 (R.Muthuswamy v. Joint Director of School Education (Higher Secondary) Chennai, and another) and by order dated 14.7.2006 I have dismissed the writ petition holding that the character and conduct of the petitioner therein, who was a Teacher, were not satisfactory and therefore the Management rightly rejected the request for re-employment.

15. At this juncture, I feel it appropriate to refer to the decision reported in AIR 2004 SC 499 (Manager, Nirmala Senior Secondary School, Port Blair v. N.I.Khan and others), wherein the Honourable Supreme Court explained the role of the Teachers in paragraphs 1 to 3, which read thus,

> "A teacher affects the eternity. He can never tell where his influence stops; said Henry Adam. Any educational institution for its growth and acceptability to a large measure depends upon the quality of teachers.
>
> 2. Educational Institutions are temples of learning. The virtues of human intelligence are mastered and harmonised by education. Where there is complete harmony between the teacher and the taught, where the teacher imparts and the student receives, where there is complete dedication of the teacher and the taught in learning, where there is discipline between the teacher and the taught, where both are worshippers of learning, no discord or challenge will arise. An educational institution runs smoothly when the teacher and the taught are engaged in the common ideal of pursuit of knowledge. It is, therefore, manifest that the appointment of teachers is an important part in educational institutions. The qualifications and the character of the teachers are really important.
>
> 3. The case at hand has some unfortunate shades as it involves alleged misconduct of a teacher and the purported desire of the management of an educational institution to keep

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him out of the institution to maintain the purity in educational sphere and serene atmosphere of the institution. ....."

16. In view of the established fact that the petitioners' character and conduct are not satisfactory, I hold that the petitioners are not entitled to get re-employment and the impugned orders dated 30.6.2006 passed by the third respondent in both the writ petitions, relieving the petitioners from service with effect from 30.6.2006 are legally sustainable and accordingly the same are valid.

Consequently, the writ petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

vr

To

1. The Chief Educational Officer,
   Tiruvannamalai, Tiruvannamalai District.

2. The District Educational Officer,
   Tiruvannamalai Educational District,
   Tiruvannamalai.

2 ccs to Mr.V.Babu, Advocate, Sr. 33688, 33687
2 ccs to Mr.A.S.Kaizer, Advocate, Sr. 33461

W.P.No.20273, 20274/2006

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